

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wesson Analyst: Roger Lackey Bill Number: AB 1370

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 04-13-99

Attorney: Pat Kusiak Sponsor:

SUBJECT: Employers Notify Employees Of Federal Earned Income Credit/Leg Intent To Study Tax Preparer Fees Charged For Filing Claims For Earned Income Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 5, 1999 STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

This bill would require that every California employer that provides unemployment insurance to their employees shall notify their employees of each employee's possible eligibility for the federal earned income credit (EIC).

This bill also would provide that it is the intent of the Legislature to study the fees charged by tax preparers to prepare a claim for the federal EIC.

SUMMARY OF AMENDMENT

The April 13, 1999, amendment revised the notification provision regarding the EIC to require that the employer notify the employee upon his or her initial employment and also within one week of the distribution of the employee's annual wage summary, unless the employee's gross wages exceed the EIC gross income limitations. The amendment also added a provision requiring the employer to process Form W-5 for advance payments of the EITC upon the request of the employee.

As a result of the April 13, 1999, amendment the department has provided the implementation and technical considerations below.

Except for the discussion in this analysis, the department's analysis of AB 1370, as amended April 5, 1999, still applies.

Implementation Considerations

Federal law already requires employers to notify employees of their eligibility for the EIC, though a notice on the back of the W-2 is considered sufficient to satisfy this notification requirement.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **4/29/1999**

Under this bill, the employer would notify the employee upon his or her initial employment and also would notify the employee again within one week of the distribution of the employee's annual wage summary. Under this bill, the federal notice on the W-2 would not be satisfactory. It would seem potentially burdensome to require an employer to notify the same employee an additional two times of his or her eligibility for the federal EIC, particularly for employers with a large number of employees.

The bill would require employers to provide and process employees' forms for advance EIC payments. However, the notice that the employers would be required to provide regarding the potential eligibility for the EIC is not required to mention that the EIC may be received in advance. The author may wish to consider amending the required notice to contain that fact.

Technical Considerations

The bill lists the notice requirement on employers and the requisite timing of the notice (at the time of employment and annually) as three separate subdivisions (a), (b), and (c). Stylistically, it would be more appropriate to list the requirement as subdivision (a), with the two timing descriptions as paragraphs (1) and (2) within that subdivision.